

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Misc. No.M- 6063 of 2017 (O&M)

Date of decision : December 05, 2017

Harjinder Kaur and another

.....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Naveen Batra, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Deepak Verma, Advocate
for respondents No.2 and 3.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 0042 dated 25.06.2016 registered under Sections 406, 498A IPC at Police Station Behram, District Shaheed Bhagat Singh Nagar alongwith consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

The abovesaid FIR was registered at the instance of respondent No.3 i.e. the father of respondent No. 2 and father-in-law of petitioner No. 2, due to matrimonial discord between petitioner No.2 and respondent No. 2. With the intervention of respectables and relatives, a compromise has been arrived at between the parties, the terms of which were reduced into writing on 13.02.2017 (Annexure P-2). The present petition has been filed on the basis of this compromise.

It is informed that petition under Section 13 of the Hindu Marriage Act, 1955 filed by respondent No. 2 has been allowed on 18.03.2017 by the learned District Judge (Family Court), Shaheed Bhagat Singh Nagar. A photocopy of order dated 18.03.2017 produced in Court today is taken on record subject to just exceptions. Respondent No. 2 undertakes not to challenge the said decision. The entire settled amount has since been handed over to respondent No. 2.

Petitioner No. 2, it is submitted, was wrongly declared a proclaimed person on 08.12.2016 in contravention of the settled provisions of law, keeping in view the fact that he was not in India at the relevant time. Moreover, the matter has now been amicably resolved. Reference is made to a judgment of this Court in **Balbir Singh versus State of Punjab and another 2011 (3) RCR (Criminal) 234**, to submit that petitioner No. 2 being declared a proclaimed person is not an impediment to quashing of the FIR.

This Court on 30.05.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Learned trial court was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at out of the free will and volition of the parties without any coercion, fear or undue influence. Learned trial court was also directed to intimate whether any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Liberty was afforded to petitioner No. 2 to have his statement recorded through his power of attorney holder – Smt. Baljinder Kaur - his sister.

Pursuant to order dated 30.05.2017, the parties appeared before the learned Judicial Magistrate First Class, Shaheed Bhagat Singh Nagar and their statements were recorded on 07.06.2017. Respondent No. 2 stated that the matter has been amicably resolved by her with both the petitioners out of her own free will, without any coercion or undue influence. The settlement arrived at between them is genuine and voluntary. It is stated that respondent No. 2 received a sum of ₹2,25,000/- vide draft dated 02.06.2017 on 07.06.2017. Rest of the settled amount i.e. ₹4,50,000/- had already been received by her earlier. Respondent No. 2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Statement of the complainant - respondent No. 3 was also recorded to similar effect. Statement of petitioner No. 1 was recorded on 07.06.2017 and of petitioner No. 2 through his power of attorney was recorded in respect to the settlement on 13.06.2017.

As per report dated 15.06.2017 received from the learned Judicial Magistrate First Class, Shaheed Bhagat Singh Nagar it is opined that compromise between the parties is genuine, voluntary, arrived at out of their own free will and consent, without any coercion or undue influence. Statements of the parties are appended alongwith the said report.

Learned counsel for respondents No.2 and 3 reaffirms and verifies the factum of settlement between the parties. It is reiterated that respondents No.2 and 3 have no objection to the quashing of the abovementioned FIR.

Learned counsel for the State, on instructions from ASI Madan Lal, submits that as the abovesaid FIR arises out of a matrimonial dispute, the State has no objection to the quashing of this FIR on the basis of a

settlement arrived at between the parties.

In **Kulwinder Singh and others versus State of Punjab and another** 2007 (3) R.C.R. (Criminal) 1052, a five member Bench of this Court has observed as under:-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”.

The Hon'ble Supreme Court in **B.S.Joshi and others v. State of Haryana, 2003(4) SCC 675** has observed that it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

Keeping in view the facts and circumstances of this case, it would be in the interest of justice to quash the abovesaid FIR as no useful purpose would be served by continuance of the present proceedings. It will merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No. 0042 dated 25.06.2016 registered under Sections 406, 498A IPC at Police Station Behram, District Shaheed Bhagat Singh Nagar alongwith all consequential proceedings including order dated 08.12.2017 are, hereby, quashed.

December 05, 2017

rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No